

111TH CONGRESS
2D SESSION

H. R. 6548

To apply reduced sentences for certain cocaine base offenses retroactively
for certain offenders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2010

Mr. SCOTT of Virginia introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To apply reduced sentences for certain cocaine base offenses
retroactively for certain offenders, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Sentencing Clari-
5 fication Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) The Fair Sentencing Act of 2010 was
9 signed into law by President Obama on August 3,
10 2010.

(2) Some district courts in the United States are applying the Fair Sentencing Act to pending criminal cases, including *United States v. Douglas*, ____ F. Supp. 2d ____, 2010 WL 4260221 (D. Me. Oct. 27, 2010); *United States v. Denton Michael Gillam*, CR No. 10–181–JTN–2 (W.D. Mich. Dec. 3, 2010); and *United States v. Marlon Jermaine Spencer*, CR No. 09–400–JW–1 (N.D. Cal. Nov. 30, 2010).

(3) There are, however, district courts that are not applying the Fair Sentencing Act to pending cases, including *United States v. Derrick Steven Clemons*, CR No. 08–028–AJS–1 (W.D. of Pa. Nov. 18, 2010) and *United States v. Anthony L. Jackson*, CR No. 10–178–JRS–1 (E.D. Va. Nov. 19, 2010).

(4) The purpose of this Act is to clarify that the amendments made by the Fair Sentencing Act are to be applied to pending cases and retroactively to certain cases that are no longer pending.

**SEC. 3. CLARIFICATION OF RETROACTIVITY WITH REGARD
TO CERTAIN OFFENSES.**

With respect to any offense for which the penalties were modified by section 2 or 3 of the Fair Sentencing Act of 2010 (Public Law 111–220) but which was committed before the date of enactment of such Act, and not-

1 withstanding the provisions of section 109 of title 1,
2 United States Code, a court which has not yet imposed
3 a sentence for the offense shall impose such sentence as
4 if sections 2 and 3 of Public Law 111–220 were in effect
5 at the time the offense was committed.

6 **SEC. 4. COURT MAY REDUCE TERM OF IMPRISONMENT IM-**
7 **POSED FOR CERTAIN OFFENSES.**

8 In the case of a defendant who has been convicted
9 of a crime committed before August 3, 2010, and punish-
10 able by a term of imprisonment under section 404(a) of
11 the Controlled Substances Act for possession of a sub-
12 stance which contains cocaine base, under section
13 401(b)(1)(A)(iii) of such Act, under section
14 401(b)(1)(B)(iii) of such Act, under section 1010(b)(1)(C)
15 of such Act, or under section 1010(b)(2)(C) of such Act
16 (21 U.S.C. 844(a), 841(b)(1)(A)(iii), 841(b)(1)(B)(iii),
17 960(b)(1)(C), or 960(b)(2)(C)), on motion of the defend-
18 ant or the Director of the Bureau of Prisons, or on its
19 own motion, the sentencing court may reduce the term of
20 imprisonment consistent with the amendments made by
21 sections 2 and 3 of the Fair Sentencing Act of 2010 (Pub-
22 lic Law 111–220).

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